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GENERAL STATUTES OF  
MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES  
AND OTHER LAWS OF A GENERAL AND PERMANENT  
NATURE, ENACTED BY THE LEGISLATURE  
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

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## CHAPTER 79

## COSTS AND DISBURSEMENTS

**7973. Argument as to fees of attorney—Costs defined—**

124-526, 144+1134; 131-102, 154+962; note under § 4955 subd. 5.

Construction and performance of agreement (128-392, 151+135). Attorney and Client, Ⓒ 148(1).

Construction of contract; validity of agreement of attorney to advance expenses of litigation, and deduct same from recovery (128-365, 151+125). Attorney and Client, Ⓒ 144.

A stipulation in the contract that neither the attorney nor the client should settle the case without the consent of the other is invalid (128-354, 151+128). Attorney and Client, Ⓒ 189.

Court, in summary proceedings by client under § 4956, may construe agreement as to compensation. Agreement construed (122-87, 141+1103). Attorney and Client, Ⓒ 126, 148.

Champerty (128-392, 151+135). Champerty and Maintenance, Ⓒ 5(1).

A complaint by one attorney against another, alleging a contract by defendant to pay plaintiff half of the fees received in a pending action, held to state a cause of action (125-357, 147+278). Attorney and Client, Ⓒ 151.

**7974. Costs in district court—**

On appeal by the state from an adverse judgment in an action against the members of the state board of medical examiners to recover license fees collected and not turned into the state treasury, costs are properly taxed in favor of defendants on affirmance of the judgment (124-151, 144+755). States, Ⓒ 215.

In an action to determine adverse claim, where defendant answered claiming title absolute, the court properly allowed costs to plaintiff, though under § 2168 the lien was decreed defendant as holder of the tax certificate (126-218, 148+273). Taxation, Ⓒ 818.

Where plaintiff, suing to quiet a tax title, is denied relief, but the amount of taxes paid is adjudged a lien on the land, defendant is entitled to costs (128-498, 151+201). Taxation, Ⓒ 818.

**7975. In actions for services—Double costs—**

Double costs held improperly allowed under this section, where no claim therefor was made in the complaint, and no proof of the right thereto on the trial (125-211, 146+359, Ann. Cas. 1915C, 688). Costs, Ⓒ 66.

**7976. Disbursements—Taxation and allowance—**

128-150, 150+622.

Cited (129-494, 152+868).

Where documentary evidence is procured for use in the trial of several actions growing out of the same transaction, but accruing to different persons, one of the plaintiffs cannot recover more than his proportionate share of the expense of obtaining such testimony, unless he shows that he has actually paid more than his share. Expenses of serving subpoenas by a private person are not taxable disbursements; nor are amounts paid for transcript of testimony obtained for the use of the attorney during the progress of the trial; nor are expense of maps and photographs received in evidence (124-361, 145+114). Costs, Ⓒ 176, 180, 190.

Money paid by plaintiff to civil engineers for a survey of his land, and to a timber cruiser for an estimate of the timber cut and taken from the land by defendant, in preparing for the trial of an action involving the location of the boundary line, are not taxable as "disbursements" (135-349, 160+863). Costs, Ⓒ 178.

Right of defendant to tax witness fees on dismissal by plaintiff after case set for trial (see 132-478, 157+592). Costs, Ⓒ 184(3).

Where three actions against three different defendants were tried together by agreement, and there was a verdict against each defendant, the court is not required to apportion the disbursements among the defendants, where two of them are not liable in any event (130-19, 153+113). Costs, Ⓒ 101.

**7977. Several actions—Costs, how allowed—**

124-526, 144+1134; 124-361, 145+114; note under § 7976.

**7983. Against guardian of infant plaintiff—**

Motion by infant plaintiff to require remittitur to be sent without payment of judgment for costs denied, where there was no showing of the inability of the guardian ad litem to pay (127-532, 148+1096). Infants, Ⓒ 116.

**7985. Chargeable on estate or fund—**

Under this section a receiver, who is the losing party on appeal, cannot be charged personally with the costs, unless it is shown that he is guilty of mismanagement or bad faith (122-531, 142+200). Receivers, Ⓒ 189.

**7987. On appeal from justice—**

In determining whether a more favorable recovery was had by plaintiff on his appeal the costs in justice court are not to be considered (122-53, 141+811). Costs, Ⓒ 231.

**7989. Supreme court—Costs and disbursements—**

**Costs allowable**—On appeal by the state from an adverse judgment in an action by the state against the members of the state board of medical examiners to recover license fees collected and not turned into the state treasury, costs are properly taxed in favor of defendants on affirmance of the judgment (124-151, 144+755). States, ⇨215.

Expenses of serving notice of appeal by a private person cannot be allowed as costs. Where notice of appeal is served on the attorney of a party, appellant is not entitled to costs for service of notice on the parties, as such additional service is unnecessary. Sheriff's fees for serving notice of appeal, the record and briefs on defendants, who were not adverse parties, cannot be allowed as part of appellant's costs and disbursements (134-148, 159+564). Costs, ⇨247.

Costs cannot be allowed appellant for certified copies of the records, where it does not appear that they were for use in the appellate court (134-148, 159+564). Costs, ⇨256(1).

**Disbursements allowable**—Disbursements for printing matter unnecessary for the presentation of the assignments of error will not be allowed (124-183, 144+768, 1135). Costs, ⇨256(2).

A charge for copying exhibits which were incorporated into the settled case used on the motion for new trial will not be allowed (124-183, 144+768, 1135). Costs, ⇨254(2), 256(1).

The prevailing party will not be allowed for disbursements for the printing of matter unnecessary to present the questions urged on appeal (128-129, 150+618). Appeal and Error, ⇨764.

In view of the practice in the three large cities of the state to charge 60 cents per page for printing the paper book and brief, where the printing is done in one of those cities, a charge of 75 cents per page, the rate prevailing in the rest of the state, will be reduced to 60 cents per page (127-462, 149+940). Appeal and Error, ⇨764.

**Costs in partition suit**—On reversal of judgment denying partition, costs will be taxed against the losing party, and are not expenses of partition under § 8037 (128-539, 151+1102). Partition, ⇨114(1).

An appeal in a partition suit is an adversary proceeding, and the rule as to apportionment of costs laid down for the district court by § 8037 does not apply (135-134, 160+496). Partition, ⇨114(1).

**Several cases between same parties**—On appeals in three actions between the same parties and involving identical questions of law, with one record, one brief, one oral argument, and one attorney on each side, and presented together under stipulation, only one allowance of statutory costs should be made (132-69, 156+1). Costs, ⇨250.

That the printed record was used in another case, with which the case under consideration was tried, does not require that but one-half of the cost of printing be taxed as costs (127-304, 149+955). Costs, ⇨254(1).

**7990. Additional allowance—Costs, when paid—**

The proviso to this section does not apply to a receiver, unless it appears that the creditors are unable to pay the costs and disbursements (122-531, 142+200). Appeal and Error, ⇨1189.

Award in case of appeal for delay (see 134-464, 157+327). Costs, ⇨260(1).

## CHAPTER 80

## APPEALS IN CIVIL ACTIONS

**7995. Notice of appeal—Service—Bond and notice to be filed—Deposit, etc.**—An appeal shall be made by the service of a notice in writing on the adverse party, and on the clerk with whom the judgment or order appealed from is entered, stating the appeal from the same, or some specific part thereof. To render the appeal effective for any purpose the party appealing shall, within the time provided by law for taking such appeal, file said notice together with the bond on appeal with the clerk of the lower court, and at the time of filing such notice and bond, such appellant shall deposit with the clerk the sum of \$15, of which ten dollars shall be transmitted to the Clerk of the Supreme Court as provided in section 7996, General Statutes 1913, as and for the filing fee required in the Supreme Court by chapter 177, Laws 1915 [5761-1], and the remainder retained by the clerk of the court below as and for the fee provided in section 5756, General Statutes 1913, subdivision 50. Whenever a party, in good faith, gives notice of appeal from a judgment or order, and omits, through mistake, to do any other act necessary to perfect the appeal, or to stay proceedings, the court may permit an amendment on such terms as may be just. (Amended '17 c. 66 § 2)

Where service of notice of appeal is made on the attorney of the adverse party service on such party is unnecessary (134-148, 159+564). Appeal and Error, ⇨424.